



Rule and Interpretive/Policy Statement Review Checklist
(This form must be filled out electronically.)

This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Document(s) Reviewed (include title):

WAC 458-16A-010 - Nonprofit homes for the aging; and

WAC 458-16A-020 - Nonprofit homes for the aging -- Initial application and annual renewal.

Date last adopted/issued: **5/19/2000**

Reviewer: **Kim M. Qually**

Date review completed: **11/27/02**

Briefly explain the subject matter of the document(s):

WAC 458-16A-010 explains the different ways a home for the aging may receive either a total or partial exemption from property tax under RCW 84.36.041. The purpose of the rule is to define commonly used terms, explain the general requirements, establish the set-aside requirements for low-income residents, and describe how a partial exemption under this statute may be obtained.

WAC 458-16A-020 explains the initial application process that must be followed when a nonprofit home for the aging applies for a property tax exemption. It also describes the annual renewal requirements that such a home must satisfy to retain its property tax exemption.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public request?

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it?
	X	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	X	Have the laws changed so that the document should be revised or repealed?
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens?



Please explain.

RCW 84.36.041 provides three different ways in which a home can qualify for a total exemption and also provides a partial exemption for homes based upon the number of eligible residents occupying the home on January 1st each year. An eligible resident is a person who has an income at or below eighty percent of the median income for the community within with the home is located. WAC 458-16A-010 and 458-16A-020 explain how to obtain and retain an exemption under this statute. These rules were last amended in April 2000 and reflect the current text of the statute.

3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule?
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed?
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

The BTA has heard only one case involving homes for the aging since the current rule was adopted. The decision rendered is not of such significance that it should be incorporated into the rules. The rules adequately explain the exemption criteria and the process to obtain and retain the exemption.

4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate?
X		Is the document providing the result(s) that it was originally designed to achieve?
	X	Do changes in industry practices warrant repealing or revising this document?



	X	Do administrative changes within the Department warrant repealing or revising this document?
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Please explain.

The current rules were written in 2000 to incorporate 1999 changes to RCW 84.36.041. They are clear and concise as written. There haven't been any changes in the law or in DOR's practices since the rules were last adopted.

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document?
X		Is the document consistent with the legislative intent of the statute(s) that authorize it?
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

RCW 84.36.865 authorizes DOR to adopt rules and regulations as may be necessary or desirable to permit the effective administration of the statutes contained in chapter 84.36 RCW, Exemptions. Also, RCW 84.36.041 specifically orders the DOR to provide by rule the number or percentage of dwelling units required to be occupied by low-income residents, a definition of low-income, and the type and character of dwelling units in regards to homes constructed, acquired, refinanced, or rehabilitated using tax-exempt bond financing. The statute is complete as written at present.

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

Property taxes are levied at the local level only. DOR is the only state agency that adopts rules regarding the exemption of real and personal property from taxation. During the rule adoption process, other state agencies, local taxing officials, and taxpayers are consulted to reduce the possibility of adopting duplicative and/or inconsistent regulations.



7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs?

Please explain.

These are interpretive rules that do not impose any new or additional administrative burdens on taxpayer businesses not imposed by the statute.

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

These rules apply uniformly to all homes for the aging that seek a total or partial property tax exemption under RCW 84.36.041. They are written in a clear and concise manner to aid taxpayers. Since their adoption in 2000, DOR has not been approached about any problems concerning these rules.

9. LISTING OF DOCUMENTS REVIEWED:

Statute(s) Implemented:

RCW 84.36.041 - Nonprofit homes for the aging

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **none**

Court Decisions: **none**

Board of Tax Appeals Decisions (BTAs):

Senior Housing Assistance Group v. DOR, BTA Docket No. 55711 (2001) - whether, in addition to actual portion of the parcel used for a home for the aging, land may be exempted from property taxation when the land is part of the site for low-income residential apartments and is required to be maintained in a mostly natural state as a wetland and storm water detention pond, pursuant to environmental restrictions imposed by the municipal authority on the development and operation of the housing complex. The portion of the site reserved as a wetland area and storm water retention pond are exempt from property taxation because it is "reasonably necessary" for operation of the home.



Appeal Division Decisions (WTDs): **none**

Attorney General Opinions (AGOs): **none**

Other Documents: **none**

10. Review Recommendation:

- _____ **Amend**
- _____ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- X** **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- _____ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

Both rules were recently revised and adopted. The statute has not been amended since the rules were adopted in 2000. There is no need to amend the rule at this time.

11. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

- _____ 1
_____ 2
_____ 3
_____ 4